



Corporation Tax Act 2009

2009 CHAPTER 4

PART 3 **U.K.**

TRADING INCOME

CHAPTER 2 **U.K.**

INCOME TAXED AS TRADE PROFITS

Charge to tax on trade profits

35 Charge to tax on trade profits **U.K.**

The charge to corporation tax on income applies to the profits of a trade.

Modifications etc. (not altering text)

- C1 S. 35 applied (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\), s. 71\(1\)](#) (with s. 147, Sch. 17)
- C2 S. 35 excluded (with effect in accordance with s. 148 of the amending Act) by [Finance Act 2012 \(c. 14\), s. 69\(a\)](#) (with s. 147, Sch. 17)

Trades and trade profits

36 Farming and market gardening **U.K.**

- (1) Farming or market gardening in the United Kingdom is treated for corporation tax purposes as the carrying on of a trade or part of a trade (whether or not the land is managed on a commercial basis and with a view to the realisation of profits).

Status: Point in time view as at 17/07/2013.

Changes to legislation: Corporation Tax Act 2009, Chapter 2 is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) All farming in the United Kingdom carried on by a company, other than farming carried on as part of another trade, is treated for corporation tax purposes as one trade.
- (3) This section does not apply to farming or market gardening by an insurance company on land which is an asset [^{F1}held by the company for the purposes of its long-term business].
- (4) In the case of farming carried on by a company as a member of a firm, this rule is explained by section 1270(1).

Textual Amendments

F1 Words in s. 36(3) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 139](#)

37 Commercial occupation of woodlands **U.K.**

- (1) The commercial occupation of woodlands in the United Kingdom is not a trade or part of a trade for any corporation tax purpose.
- (2) For this purpose the occupation of woodlands is commercial if the woodlands are managed—
 - (a) on a commercial basis, and
 - (b) with a view to the realisation of profits.
- (3) See also sections 208 and 980 (which, when read with this section, secure that profits or losses from the commercial occupation of woodlands in the United Kingdom are ignored for corporation tax purposes).

38 Commercial occupation of land other than woodlands **U.K.**

- (1) The commercial occupation of land in the United Kingdom is treated for corporation tax purposes as the carrying on of a trade or part of a trade.
- (2) For this purpose the occupation of land is commercial if the land is managed—
 - (a) on a commercial basis, and
 - (b) with a view to the realisation of profits.
- (3) This section does not apply—
 - (a) to farming or market gardening (which is dealt with by section 36),
 - (b) if the land is being prepared for forestry purposes,
 - (c) if the land comprises woodlands (which is dealt with by section 37), or
 - (d) to the occupation by an insurance company of land which is an asset [^{F2}held by the company for the purposes of its long-term business].

Textual Amendments

F2 Words in s. 38(3)(d) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\)](#), [Sch. 16 para. 140](#)

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39 Profits of mines, quarries and other concerns **U.K.**

- (1) Profits or losses arising out of land in the case of a concern to which this section applies are calculated as if the concern were a trade.
- (2) Any profits arising out of the land are treated for the purposes of [^{F3}section] 35 as profits of a trade.
- (3) Any losses arising out of the land are treated for the purposes of [^{F4}Chapter 2 of Part 4 of CTA 2010 (trade loss relief), and Part 5 of that Act (group relief),] as losses of a trade carried on in the United Kingdom.
- (4) The concerns to which this section applies are—
 - (a) mines and quarries (including gravel pits, sand pits and brickfields),
 - (b) ironworks, gasworks, salt springs or works, alum mines or works, waterworks and streams of water,
 - (c) canals, inland navigation, docks and drains or levels,
 - (d) rights of fishing,
 - (e) rights of markets and fairs, tolls, bridges and ferries,
 - (f) railways and other kinds of way, and
 - (g) a concern of the same kind as one specified in paragraph (b), (c), (d) or (e).
- (5) But this section does not apply to a concern—
 - (a) if it is carried on by an insurance company on land which is an asset [^{F5}held by the company for the purposes of its long-term business], or
 - (b) if section 38 (commercial occupation of land other than woodlands) applies to the occupation of the land out of which the profits or losses arise.

Textual Amendments

- F3** Word in s. 39(2) substituted (with effect in accordance with s. 381(1) of the amending Act) by [Taxation \(International and Other Provisions\) Act 2010 \(c. 8\), s. 381\(1\), Sch. 8 para. 310](#) (with [Sch. 9 paras. 1-9, 22](#))
- F4** Words in s. 39(3) substituted (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\), s. 1184\(1\), Sch. 1 para. 592](#) (with [Sch. 2](#))
- F5** Words in s. 39(5)(a) substituted (17.7.2012) by [Finance Act 2012 \(c. 14\), Sch. 16 para. 141](#)

40 Credit unions **U.K.**

- (1) If a credit union—
 - (a) makes loans to its members, or
 - (b) invests its surplus funds (by placing them on deposit or otherwise),that is not treated, in calculating the credit union's income, as the carrying on of a trade or part of a trade.
- (2) In this section “surplus funds” means funds not immediately required for the credit union's purposes.

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Starting and ceasing to trade

41 Effect of company starting or ceasing to be within charge to corporation tax U.K.

- (1) This section applies if a company starts or ceases to be within the charge to corporation tax in respect of a trade.
- (2) The company is treated for the purposes of this Part—
 - (a) as starting to carry on the trade when it starts to be within the charge, or
 - (b) as ceasing to carry on the trade when it ceases to be within the charge.

Trading income and property income

42 Tied premises U.K.

- (1) This section applies if—
 - (a) in the course of carrying on a trade a company (“the trader”) supplies, or is concerned in the supply of, goods sold or used on premises occupied by another person,
 - (b) the trader has an estate or interest in the premises,
 - (c) the estate or interest is dealt with as property employed for the purposes of the trade, and
 - (d) receipts and expenses in connection with the premises would otherwise be brought into account in calculating the profits of a property business of the trader.
- (2) Both the receipts and the expenses are instead brought into account in calculating the profits of the trade.
- (3) Any apportionment of receipts or expenses that is necessary because—
 - (a) the receipts or expenses do not relate only to the premises, or
 - (b) the above conditions are met only in relation to part of the premises,
 is to be made on a just and reasonable basis.

Modifications etc. (not altering text)

- C3** S. 42 excluded by 2006 c. 25, s. 104(3) (as inserted (with effect in accordance with Sch. 34 para. 2(2) of the commencing Act) by [Finance Act 2009 \(c. 10\)](#), [Sch. 34 para. 2\(1\)](#))

43 Caravan sites where trade carried on U.K.

- (1) This section applies if—
 - (a) a company (“the trader”) carries on material activities connected with the operation of a caravan site,
 - (b) the activities are, or are part of, a trade, and
 - (c) receipts from, and expenses of, lettings of caravans or pitches for caravans on the site would otherwise be brought into account in calculating the profits of a property business of the trader.

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- (2) The trader may instead bring both the receipts and the expenses into account in calculating the profits of the trade.
- (3) But if the conditions in subsection (1)(a) and (b) are met for only part of an accounting period of the trader, subsection (2) applies only to the receipts and expenses that would otherwise be brought into account in calculating the profits of the property business for that part of the accounting period.
- (4) In this section—
 - “caravan site” means—
 - (a) land on which a caravan is stationed for the purposes of human habitation, and
 - (b) land which is used in conjunction with land on which a caravan is so stationed, and
 - “letting” includes a licence to occupy.

44 Surplus business accommodation **U.K.**

- (1) This section applies if—
 - (a) a company (“the trader”) carrying on a trade obtains receipts from a letting of business accommodation that is temporarily surplus to requirements (see subsections (3) and (4)),
 - (b) the accommodation is not held as trading stock,
 - (c) the receipts are in respect of part of a building of which another part is used to carry on the trade,
 - (d) the receipts are relatively small, and
 - (e) the receipts, and the expenses of the letting, would otherwise be brought into account in calculating the profits of a property business of the trader.
- (2) The trader may instead bring both the receipts and the expenses into account in calculating the profits of the trade.
- (3) Accommodation is temporarily surplus to requirements only if—
 - (a) it has been used within the last 3 years to carry on the trade or acquired within the last 3 years,
 - (b) the trader intends to use it to carry on the trade at a later date, and
 - (c) the letting is for a term of not more than 3 years.
- (4) If accommodation is temporarily surplus to requirements at the beginning of an accounting period, it continues to be temporarily surplus to requirements until the end of that period.
- (5) If under this section any of the receipts from and expenses of a letting are brought into account in calculating the profits of the trade, all subsequent receipts from and expenses of the letting must be dealt with in the same way (but only so long as this section continues to apply).
- (6) In this section “letting” includes a licence to occupy.

45 Payments for wayleaves **U.K.**

- (1) This section applies if—

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- (a) a company (“the trader”) carries on a trade on some or all of the land to which a wayleave relates,
 - (b) rent is receivable, or expenses are incurred, by the trader in respect of the wayleave, and
 - (c) apart from any rent or expenses in respect of a wayleave, no other receipts or expenses in respect of any of the land are brought into account in calculating the profits of any property business of the trader.
- (2) If—
- (a) the trader would otherwise be liable to tax under Chapter 8 of Part 4 in respect of the rent for the wayleave (rent receivable for UK electric-line wayleaves), or
 - (b) expenses incurred by the trader in respect of the wayleave would otherwise be brought into account in calculating profits charged under that Chapter,
- the trader may instead bring both the rent and the expenses into account in calculating the profits of the trade.
- (3) If—
- (a) rent for the wayleave would otherwise be brought into account in calculating the profits of a property business of the trader, or
 - (b) expenses incurred by the trader in respect of the wayleave would otherwise be so brought into account,
- the trader may instead bring both the rent and the expenses into account in calculating the profits of the trade.
- (4) In this section “rent” includes—
- (a) a receipt mentioned in section 207(3), and
 - (b) any other receipt in the nature of rent.
- (5) In this section “wayleave” means an easement, servitude or right in or over land which is enjoyed in connection with—
- (a) an electric, telegraph or telephone wire or cable,
 - (b) a pipe for the conveyance of any thing, or
 - (c) any apparatus used in connection with such a pipe.
- (6) The reference to the enjoyment of an easement, servitude or right in connection with an electric, telegraph or telephone wire or cable includes (in particular) its enjoyment in connection with—
- (a) a pole or pylon supporting such a wire or cable, or
 - (b) apparatus used in connection with such a wire or cable.

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